

Notice of Allowability

Application No.

09/804,002

Examiner

Steven R Garland

Applicant(s)

WEISHUT ET AL.

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the papers filed 4/26/04.
2. ☒ The allowed claim(s) is/are 1,3-7,9-20 renumbered respectively 1-5,7-11,13-17,6,12,18.
3. ☒ The drawings filed on 12 March 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Gathman on 7/29/04.

The application has been amended as follows:

Claim 1, line 15, before " displaying" insert -- upon selection of an item from the second menu level --.

Claim 1, line 16, change "a" to -- the selected --.

Claim 7, line 15, before " displaying" insert -- upon selection of an item from the second menu level --.

Claim 7, line 16, change "a" to -- the selected --.

Claim 13, line 1, after "product" insert --on a computer readable medium--.

Claim 13, line 16, before " displaying" insert -- upon selection of an item from the second menu level --.

Claim 13, line 17, change "a" to -- the selected --.

Claim 14, line 1, after "program" insert -- product --.

Claim 15, line 1, after "program" insert -- product --.

Claim 16, line 1, after "program" insert -- product --.

Claim 17, line 1, after "program" insert -- product --.

Claim 18, line 3, change "to a" to -- to the selected --.

Claim 19, line 4, change "a" to -- the selected --.

Claim 20, line 1, after "program" insert -- product --.

Claim 20, line 4, change "a" to -- the selected --.

In the specification:

Page 7, line 1, (the first page of the claims as originally filed) change "CLAIMS"
to -- We claim:--.

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The copy of the declaration in the application is not signed by all the inventors. The signature by Gideon Martin Reinier Weishut is the only one appearing in the declaration and a declaration signed by all the inventors is required.

Note that if a declaration signed by all the inventors had been previously submitted then the sheet(s) with the other inventors signatures is missing from the application and a declaration is now being required so that a declaration signed by all the inventors is in the application file.

3. Applicant is now required to submit a substitute declaration or oath to correct the deficiencies set forth above. The substitute oath or declaration must be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability" (PTO-37). Extensions of time may NOT be obtained under the provisions of 37 CFR

1.136. Failure to timely file the substitute declaration (or oath) will result in **ABANDONMENT** of the application. The transmittal letter accompanying the declaration (or oath) should indicate the date of the "Notice of Allowance" (PTOL-85) and the application number in the upper right hand corner.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R Garland whose telephone number is 703-305-9759. The examiner can normally be reached on Monday-Thursday from 6:30 to 5:00.

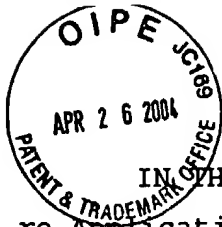
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard, can be reached on 703-308-0538. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



5r6
Steven R Garland
Examiner
Art Unit 2125

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100



2125

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Atty. Docket

GIDEON M. REINIER WEISHUT ET AL

NL000146

Serial No. 09/804,002

Group Art Unit: 2125

Filed: March 12, 2001

Examiner: Steven R. Garland

METHOD AND APPARATUS FOR DISPLAYING A MULTI-LEVEL MENU

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

APR 28 2004

Technology Center 2100

AMENDMENT

Sir:

In response to the Office Action dated January 22,
2004, please amend the above-identified U.S. application as
follows:

IN THE CLAIMS

Please amend the claims as follows:

1. (Currently Amended) A method of displaying a multi-level menu, comprising the steps of:

displaying menu items of a first menu level in a first display area, wherein the menu items of the first menu level have a fixed position relative to a third display area;

displaying, in response to a selection of a menu item of the first menu level, menu items of a second menu level in a second display area, the second menu level being subordinate to the selected menu item of the first menu level, wherein the second display area has a fixed orthogonal position with respect to the first display area irrespective of a position of the selected menu item of the first menu level, and wherein the first and second display areas extend along different orthogonal borders of athe third display area; and

displaying a connection indicator connecting the selected menu item of the first menu level and a menu item of the second menu level such that the connection indicator traverses both the first display area and the second display area around the different orthogonal borders of the third display area.

2. (Canceled).

3. (Previously Presented) A method as defined in claim 1, characterized in that the first and the second display areas are oblong and arranged substantially orthogonally relative to each other.

4. (Previously Presented) A method as defined in claim 3, characterized in that the first and the second display areas extend along adjacent borders of the third display area.

5. (Original) A method as defined in claim 4, characterized in that the multi-level menu constitutes a database filter for selecting data objects in accordance with selected menu items, the method further comprising a step of displaying the selected objects in the third display area.

6. (Original) A method as defined in claim 5, characterized in that the data objects are programs in an electronic program guide database, and the menu items of the first menu level correspond to main genres of the programs, and the menu items of the second menu level correspond to subgenres of a selected main genre of the first menu level.

7. (Currently Amended) A display device comprising multi-level menu means for:

displaying menu items of a first menu level in a first display area, wherein the menu items of the first menu level have a fixed position relative to a third display area;

displaying, in response to a selection of a menu item of the first menu level, menu items of a second menu level in a second display area, the second menu level being subordinate to the selected menu item of the first menu level, wherein the second display area has a fixed orthogonal position with respect to the first display area irrespective of a position of the selected menu item of the first menu level, and wherein the first and second display areas extend along different orthogonal borders of athe third display area; and

displaying a connection indicator connecting the selected menu item of the first menu level and a menu item of the second menu level such that the connection indicator traverses both the first display area and the second display area around the different orthogonal borders of the third display area.

8. (Canceled).

9. (Previously Presented) A display device as defined in claim 7, characterized in that the first and the second display areas are oblong and arranged substantially orthogonally relative to each other.

10. (Previously Presented) A display device as defined in claim 9, characterized in that the first and the second display areas are positioned along adjacent borders of the third display area.

11. (Original) A display device as defined in claim 10, characterized in that the display device further comprises database means for storing a plurality of data objects, and the multi-level menu constitutes a database filter for selecting data objects in accordance with selected menu items, the database means being adapted to display the selected objects in the third display area.

12. (Previously Presented) A display device as defined in claim 11, characterized in that the display device further comprises electronic program guide means, the data objects being programs in the electronic program guide, and the menu items of the first menu level correspond to main genres of the programs, and the menu items of the second menu level correspond to subgenres of a selected main genre of the first menu level.

THIS PAGE BLANK (USPTO)

13. (Currently Amended) A computer program product for performing, when executed on a programmable computing device, the steps of:

displaying menu items of a first menu level in a first display area, wherein the menu items of the first menu level have a fixed position relative to a third display area;

displaying, in response to a selection of a menu item of the first menu level, menu items of a second menu level in a second display area, the second menu level being subordinate to the selected menu item of the first menu level, wherein the second display area has a fixed orthogonal position with respect to the first display area irrespective of a position of the selected menu item of the first menu level, and wherein the first and second display areas extend along different orthogonal borders of athe third display area; and

displaying a connection indicator connecting the selected menu item of the first menu level and a menu item of the second menu level such that the connection indicator traverses both the first display area and the second display area around the different orthogonal borders of the third display area.

14. (Previously Presented) A computer program as defined in claim 13, characterized in that the first and the second display areas are oblong and arranged substantially orthogonally relative to each other.

15. (Previously Presented) A computer program as defined in claim 13, characterized in that the first and the second display areas extend along adjacent borders of the third display area.

16. (Previously Presented) A computer program as defined in claim 13, characterized in that the multi-level menu constitutes a database filter for selecting data objects in accordance with selected menu items, the computer program further for performing a step of displaying the selected objects in the third display area.

17. (Previously Presented) A computer program as defined in claim 16, characterized in that the data objects are programs in an electronic program guide database, and the menu items of the first menu level correspond to main genres of the programs, and the menu items of the second menu level correspond to subgenres of a selected main genre of the first menu level.

18. (Previously Presented) A method as defined in claim 1, wherein the connection indicator comprises a first line from the selected menu item of the first menu level and a second line to a menu item of the second menu level, the second line connected to the first line.

19. (Previously Presented) A display device as defined in claim 7, wherein the connection indicator comprises a first line from the selected menu item of the first menu level and a second line to a menu item of the second menu level, the second line connected to the first line.

20. (Previously Presented) A computer program as defined in claim 13, wherein the connection indicator comprises a first line from the selected menu item of the first menu level and a second line to a menu item of the second menu level, the second line connected to the first line.

REMARKS

This Amendment is submitted in response to the outstanding Office Action dated January 22, 2004 wherein the Examiner rejected claims 1, 3, 7 and 9-20. Claims 1 and 7 were rejected as being anticipated by Rowe et al. U.S. Patent No. 5,623,613 (hereinafter "Rowe"). The Examiner further rejected Claims 1, 3-7, and 9-20 under 35 U.S.C 103a as being unpatentable over Okhura et al. U.S. Patent No. 5,737,028 (hereinafter "Okhura"). Reconsideration of these rejections in view of the above amendments and following remarks is respectfully requested.

The rejection under 35 U.S.C. Section 102

In the January 22, 2004 Office Action, the Examiner rejected claims 1 and 7 under 35 U.S.C. Section 102(b) as being anticipated by United States Patent No. 5,623,613 to Rowe. The Applicants respectfully traverse this rejection on the grounds that Rowe does not recite that the first display area is orthogonal to the second display areas and wherein the connection indicator traverses both the first display area and the second display area.

It is axiomatic that a prior art reference anticipates the claimed invention under 35 U.S.C. Section 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP Section 2131. See, *In re King*, 231 USPQ 126, 138 (Fed. Cir. 1986) citing with

approval, *Lindemann Maschinenfabrik v. American Hoist and Derrick*, 221 USPQ 481, 485 (Fed. Cir. 1984)); *In re Bond*, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. MPEP Section 2131. *In re Donohue*, 766 F.2d 531, 534, 226 USPQ 619, 621 (Fed. Cir. 1985).

With respect to any of Claims 1 and 7, a determination of anticipation in accordance with Section 102 requires that each feature claimed therein be described in sufficient detail in Rowe to enable one of ordinary skill in the art to make and practice the claimed invention.

The Applicants direct the Examiner's attention to Claim 1 of the application, which contains the following unique and novel limitations:

1. A method of displaying a multi-level menu, comprising the steps of:
 - displaying menu items of a first menu level in a first display area wherein the menu items of the first menu level have a fixed position relative to a third display area;
 - displaying, in response to a selection of a menu item of the first menu level, menu items of a second menu level in a second display area, the second menu level being subordinate to the selected menu item of the first menu level, wherein the second display area has a fixed orthogonal position with respect to the first display area irrespective of a position of the selected menu item of the first menu level, and wherein the first and second display areas extend along different orthogonal borders of the third display area; and
 - displaying a connection indicator connecting the selected menu item of the first menu level and a menu item of the second menu level such that the connection indicator traverses both the first display area and the second display area around the different orthogonal borders of the third display area.

The Applicants respectfully assert that the above-emphasized limitations are not shown in the Rowe reference. The cited portions of the Rowe reference do not show that the first and second display areas are orthogonal to one another and the connection indicator traverses both the first display area and the second display area. Applicants take this opportunity to explain Applicants' invention. Applicants have claimed a unique and novel method of structuring menus such that the menus do not cover the display area. The menu structure includes at least three display areas. The first and second display areas are orthogonal to one another and extend along different orthogonal borders of a third display area where typically the main activity at hand is displayed. This provides maximum viewing area for the third display area. The first and second display areas display first and second menu levels, the second menu level being subordinate to the first menu level. In order for the user to see which menu item in the first menu level is associated with the menu item in the second menu level a connection indicator is used. Instead of popping up the second menu level right under or next to the item in the first menu level it is associated with (which would cover the display area) the connector traverses along the border of the first display area and the second display area to connect the item in the first menu level with the item in the second menu level. This prevents overlapping the display area with the menu structures.

The cited portions of Rowe show three display areas but the two menus are displayed parallel to one another so, as shown in Figs. 2-8, the viewing area is relatively small. In addition, the connector does not traverse along a border of the first display area and a border of the second orthogonal display area. Accordingly, Applicants respectfully submit that the claims are allowable over Rowe.

The rejection under 35 USC Section 103

On Page 3 of the January 22, 2004 Office Action, the Examiner rejected claims 1, 3-7, and 9-20 under 35 U.S.C. Section 103(a) as being unpatentable over Ohkura. The Applicants respectfully traverse the rejections of claims 5, 14 and 20 under 35 U.S.C. Section 103(a) on the grounds that in Ohkura the menu items of the first menu level do not have a fixed position relative to the third display area and therefore there is no need to have a connection indicator that traverses both the first display area and the second display area around the different orthogonal borders of the third display area.

During *ex parte* examinations of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP Section 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis is to deny

patentability to a claimed invention is always upon the Patent Office. MPEP Section 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of non-obviousness. MPEP Section 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 USPQ 870, 873 (Fed. Cir. 1985).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not be based on an applicant's disclosure. MPEP Section 2142.

For the reasons set forth below Applicants respectfully submit that the Patent Office has not established a prima facie case of obviousness with respect to Claims 1, 3-7, and 9-20 of the Applicants' invention. The Applicants respectfully assert that the Ohkura reference does not teach or suggest that the menu items of the first menu have a fixed position relative to the third display area. In Ohkura, the menu items of the first menu move depending on the selected menu item. For example, the menu items "NEWS" is selected in Fig. 16 so the "NEWS" menu item moves to the left of the screen so the subordinate pop up menu, with the subordinate menu items, doesn't cover the middle of the third display area. In Fig. 18 the menu item "SPORTS" is selected so this menu item moves to the left of the third display area and the "NEWS" menu item is now in the middle of the list of first menu items. These menu items are not fixed relative to the third display area. Accordingly, there is no need in Ohkura to have the connection indicator that traverses both the first display area and the second display area around the different orthogonal borders of the third display area. The problem with Ohkura's method is that the menu items are not in their standard positions so the user must scan the entire menu to select the desired menu item because it keeps changing position. It therefore would not have been obvious to use such a connection indicator because it is not necessary in the Ohkura design.

In Applicant's invention, Applicant designed a fixed menu system where the menu items of the first menu list are fixed relative to the third display area. In order to show some connection between the two selected menu items without obscuring the third display area, Applicants have created a connection indicator that does not obscure the third viewing area. Applicants therefore respectfully submit that the claims are allowable over Okhura.

Entry of this Amendment reconsideration of these rejections and allowance of all the claims is respectfully requested.

If any issues arise, or if the Examiner has any suggestion for expediting allowance of this Application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at Laurie.Gathman@Philips.com.

Respectfully submitted,

By Laurie E. Gathman
Laurie E. Gathman, Reg. 37,520
Attorney
(914) 333-9605

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited this date with the United States Postal Service as first-class mail in an envelope addressed to:

COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, VA 22313-1450

On April 22 2004
By Patricia J. Smith